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INDIANA UTILITY REGULATORY COMMISSION
GENERAL COUNSEL

RM #06-05

COMMENTS OF VERIZON

Verizon North Inc., Contel of the South, Inc. d/b/a Verizon North Systems, and MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (collectively “Verizon”) by its undersigned counsel, respectfully submits the following comments to the Indiana Utility Regulatory Commission’s (“IURC” or “Commission”) Notice of Proposed Rulemaking issued November 9, 2006 regarding the new communication requirement for customers who are changing from basic to non-basic telecommunications services pursuant to IC 8-1-2.6-4.1. Verizon’s comments fall into two main areas. First, some provisions of the proposed rule do not track IC 8-1-2.6-4.1 and therefore should be removed or modified. Second, other provisions should be modified because they will have unintended consequences. Verizon’s suggested changes resolve these concerns.

1. Proposed Revisions

Section 170 IAC 7-1.4-3 of the proposed rule, which sets forth information that must be included in the notice to customers, includes a requirement at (a)(2)(B) that a statement be

immediately made at the point of sale that access to the Commission's consumer complaint procedures and proceedings will be lost upon switching from basic to non-basic telecommunications service. HEA 1279 does not mandate this specific, contemporaneous statement, or any specific statement relating to the Commission's consumer complaint procedures and proceedings; IC 8-1-2.6-4.1(b)(2) enumerates only pricing and quality of service protections. The statute states:

(2) any regulatory protections, including pricing or quality of service protections, that the residential customer would forego by switching to nonbasic telecommunications service.

The Commission may only mandate the specific language of the proposed rule if the enabling statute requires that the statement be made. It does not. Thus, it is unreasonable, arbitrary and unlawful for the Commission to expand the notice beyond what is required by the statute and it is beyond what the legislature authorizes the Commission to include in its rule.

Moreover, such a disclosure could confuse customers, who might believe that the new law bars them from submitting complaints to agencies other than the IURC. Verizon suggests that 170 IAC 7-1.4-3(a)(2)(B) be revised to more accurately track the language of IC 8-1-2.6-4.1(b) as follows:

- (2) that, by switching to non-basic telecommunications service, the customer will be foregoing ~~the following~~ regulatory protections offered by the Commission, including:
- (A) commission jurisdiction over:
 - (i) rates and charges; and
 - (ii) service quality standards; ~~and;~~
 - ~~—(B) access to the commission's consumer complaint procedures and proceedings.~~

Further, Section 170 IAC 7-1.4-3(b) of the proposed rule includes a statement that the notice shall be given "in the same form and at the same time" as the communication regarding the change in service. Again, HEA 1279 contains no such requirement. It does not require that

the notice be provided at the same time as the communication with the customer, or by the same mode of communication. The statute uses the term “notify”, which is something providers routinely do today through bill inserts, emails or mailings. It is reasonable to conclude that the legislature intended this common practice be used when it used the term “notify”. Requiring providers to make the disclosure orally during a sales call will cause customer confusion and likely deter customers from purchasing non-basic services that are better suited to their telecommunications needs. It is more appropriate to include this disclosure in writing with all of the other rates, terms and conditions confirmed as part of the customer’s welcome kit, so that the customer can review it in detail and refer to the disclosure as needed.

Finally, if the new contemporaneous statement is required during oral communications with customers, it will degrade service. A statement about “foregoing” or waiving rights will undoubtedly lead to more questions from customers opting to move from basic to non-basic services. This will in turn cause an increase in call handling times, as well as a detrimental impact on the market success of non-basic services. This unintended consequence of generating what will appear to be negative results and increased costs for carriers’ operational measures are reason alone to remove the mandated statement from the proposed rule.

2. Discriminatory Application of rule

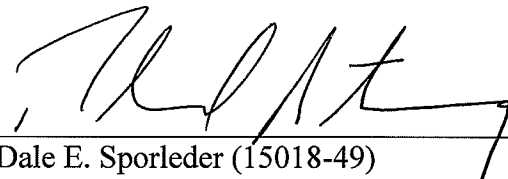
Due to the fact that many competitors in Indiana, including cable companies, provide telecommunications services using Voice Over Internet Protocol (“VOIP”), which is an unregulated service, the proposed rule will not apply equally to all carriers. This will put the incumbent local exchange carriers (“ILECs”) and competitive local exchange carriers (“CLECs”) in Indiana at a competitive disadvantage and will confuse customers, possibly leading them to

decline packages that are in their best interest. For this reason, as well as those stated above,, it is important that providers subject to this rule not be required to make the statement about “foregoing” rights at the point of sale. Instead, they should be allowed to notify their customers in writing to comply with the statute like they do for other reasons today, as a follow-up communication.

3. Conclusion

Verizon recommends the Commission adopt its proposed modifications as contained herein. These changes will enhance the customer service selection experience and aid them in choosing services that best suit their needs.

Respectfully submitted this 13 day of December, 2006


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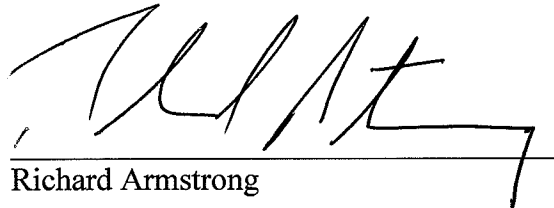
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CERTIFICATE OF SERVICE
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The undersigned hereby certifies that on the 13 day of December, 2006, an original and five copies of the foregoing comments were delivered to the Indiana Utility Regulatory Commission and a copy was served upon the following counsel:

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